

Ordinance No. 2008-01

**SOLID WASTE AND RECYCLING RESPONSIBILITY ORDINANCE
OF THE DEL NORTE SOLID WASTE MANAGEMENT AUTHORITY**

A Joint Powers Authority of the
City of Crescent City
And the
County of Del Norte

The Board of Commissioners of the Del Norte Solid Waste Management Authority finds the following to be true:

WHEREAS, the Authority is a Joint Powers Authority of the City of Crescent City and the County of Del Norte, formed in part to become the single local government agency responsible to comply with the requirements of the California Integrated Waste Management Act of 1989, as amended; and

WHEREAS, the Authority has developed the policies in this Ordinance to reduce illegal dumping and the unsightly and unhealthy accumulation of solid waste or other discards separated for recovery throughout Del Norte County; and

WHEREAS, the Authority adopts this Ordinance to establish community standards for solid waste, recycling, composting and hazardous waste management responsibilities for residents, businesses, landlords, agencies, and institutions; and

WHEREAS, the Authority has developed the policies in this Ordinance to enable responsible self-haulers to continue using facilities administered by the Authority in a way that fosters the potential future use of credit and debit cards without creating delays at the Del Norte County Transfer Station; and

WHEREAS, the Authority has planned to accommodate registered commercial self-haulers at the Del Norte County Transfer Station, but such businesses will not be allowed to collect trash for a fee or otherwise violate or undermine the terms of the Exclusive Franchise Collection Agreement; and

WHEREAS, the Authority has determined that the potential for nuisance accumulations of solid waste and illegal dumping could be reduced by making landowners the parties primarily responsible for providing solid waste and recyclables collections services adequate for their properties and tenants; and

WHEREAS, the Authority intends to use this Ordinance, the Franchise Collection Agreement and other administrative actions to direct the flow of necessary quantities of materials to appropriate facilities receiving and processing solid waste, recyclable commodities, and recoverable organic materials to assure the economic viability of such facilities and to collect revenues for other necessary aspects and programs of the integrated waste management system in Del Norte County; and

8.3

WHEREAS, the Authority has determined that the Violations and Enforcement provisions of this Ordinance establish necessary tools for the Authority and its enforcement officer to ensure that all residents, businesses, agencies, and institutions legally participate and contribute to the programs and facilities for integrated waste management in Del Norte County; and

WHEREAS, the United States Supreme Court has upheld the right of local government agencies to adopt an integrated system approach with integrated system fees to create enhanced incentives for recycling and proper disposal of other wastes and to require that all waste be deposited at government owned facilities; and

WHEREAS, the Authority is a member of both the California Product Stewardship Council and the Environmental Services Joint Powers Authority of the Regional Council for Rural Counties, and each of these parties have adopted policies to support implementation of Extended Producer Responsibility and Product Stewardship programs, particularly for hazardous wastes, universal wastes, and other materials and products banned from disposal in California; and

WHEREAS, the Authority empowered the Del Norte Solid Waste Task Force (SWTF) to convene public meetings to discuss strategies to address illegal dumping and blight such as mandatory collection, and the Authority has incorporated recommendations from the SWTF regarding the provisions of this Ordinance as well as the service specifications to be included in the new collections franchise; and

WHEREAS, on July 18, 2007, the Authority directed staff to include within the service standards for the new franchise agreement an option for collection of a separate container for compostable organic materials as an additional service to the residents and businesses of Del Norte;

NOW, THEREFORE, the Board of Commissioners of the Del Norte Solid Waste Management Authority does ordain as follows:

SECTION 1. GENERAL

1.01 Title. This Ordinance shall be known and cited as the "Solid Waste and Recycling Responsibility Ordinance."

1.02 Legislative Findings.

- (a) The Board has found and determined that the storage, accumulation, collection, processing, recovery and/or disposal of discards is a matter of great public concern in that improper control of such matters may create a public nuisance, air pollution, fire hazard, rat and insect infestation and other problems affecting the public health safety and welfare.

- (b) The Board has found and determined that the activities and business of collecting and subsequently transporting, transferring, processing, recycling and/or disposing of residential and commercial discards generated within the County of Del Norte affect the health, safety, public welfare and quality of life of the local residents and visitors.
- (c) The Board has found and determined that to reduce the likelihood of illegal disposal of hazardous materials, the need for establishing a separate mechanism for collection, consolidation, recovery and/or disposal for such hazardous products or materials is first caused by the sale within Del Norte County of products and materials which have been banned from disposal as municipal solid waste. The Board intends that Producers of such Products of Concern sold in Del Norte County will be held fiscally and operationally responsible for the collection and recovery of such products and materials within Del Norte County, and that such services are to be provided at no additional end-of-life cost to customers.
 - i. The Board hereby declares that Federal and Statewide programs to extend producer responsibility in accord with the 'Overall Framework for an Extended Producer Responsibility System in California,' as adopted by the California Integrated Waste Management Board are preferred over local extended producer responsibility mandate(s).
 - ii. To increase customer convenience, to reduce illegal disposal of hazardous wastes, and to control public expenditures for managing such wastes, the Board hereby explicitly identifies and reserves the right to enact local ordinance(s) to require producers and retailers to establish and maintain take back programs in Del Norte County for any Product of Concern.

1.03 Purpose. The purpose for this Ordinance is to firmly establish the responsibilities for each person, property owner, business, Producer, or government agency, regarding discard management in Del Norte County and identifying acceptable management methods that do not damage the habitat, property and aesthetic values of Del Norte County, but protect and preserve Del Norte County lands, waterways, and coast.

SECTION 2. DEFINITIONS

2.01 Authority means the Del Norte Solid Waste Management Authority.

2.02 Authority Facilities means facilities for receiving and processing Discards that are owned, managed, permitted to operated by the Authority, or Discard processing facilities in the County to which the Authority has directed materials under its control and jurisdiction.

2.03 Basic Level of Service means the variety, convenience, and capacity of collection services provided by the Franchise Collector as the minimal standard specified for that Customer Class, including the Collection of Recoverable

Materials, Solid Waste, and other Collection Services as defined within the Exclusive Franchise Agreement and as revised from time to time therein.

- 2.04 Board** means the Board of Commissioners of the Del Norte Solid Waste Management Authority.
- 2.05 Bulky Waste** means large items of Solid Waste such as appliances, furniture, large auto parts, and other oversized Wastes whose large size precludes or complicates their handling by normal Collection, Removal, or Disposal methods.
- 2.06 Business** means a commercial enterprise or establishment.
- 2.07 Collection or Collection Services** means using a vehicle for the hauling of Discards from one or more Premises and their transportation and delivery to an appropriately permitted facility to receive such Discards.
- 2.08 Collector** means the Person(s) issued a Franchise by the Authority to provide Residential or Non-Residential Discard Collection Services within Del Norte County or a Registered Self-Hauler providing services permissible under this Ordinance.
- 2.09 Compostables** means organic matter capable of being used as a feedstock for composting, including yard debris, grass clippings, leaves, Food Scraps, and paper or cellulose items which do not contain plastics, foils, or dyes containing heavy metals.
- 2.10 Construction** means the building of any facility or structure, or any portion thereof, including any tenant improvements to a previously unoccupied existing facility or structure. "Construction" does not include a project limited to interior plumbing work, electrical work, mechanical work, or any combination thereof.
- 2.11 Construction and Demolition Materials or C&D Materials** means used or commonly Discarded Materials removed from the Premises of a Covered Project during Construction, grading, remodeling, repair, Demolition, deconstruction or Renovation resulting from Construction, Renovation, grading, remodeling, repair, deconstruction or Demolition operations on any pavement, house, commercial building, or other structure, or from landscaping associated with a Covered Project. Such materials include, but are not limited to, inert waste (including brick, concrete, rock, sand, soil, ceramics and cured asphalt), gravel, plaster, gypsum wallboard, aluminum, glass, plastic pipe, roofing material, carpeting, wood, masonry, trees, stumps, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from Construction, remodeling, Renovation, repair and Demolition operations on pavement, houses, commercial buildings and other structures, and grading.

- 2.12 Construction Period** means the period of time from the commencement of the Covered Project until seven (7) days after the completion of the Covered Project.
- 2.13 County** means all areas of the County of Del Norte in the State of California, including territorial waters and the incorporated territory comprising the City of Crescent City.
- 2.14 Covered Project** means a project for which a new construction, building, remodeling, Demolition, grading or other similar permit is required by the County Building Department.
- 2.15 Customer Class** means the designation of a potential customer as Residential, Multi-Family Unit, or Non-Residential, and such additional Customer Classes as are described within the Collections Franchise as amended.
- 2.16 Days** means calendar days unless otherwise indicated.
- 2.17 Demolition** means the dismantling, deconstruction, destruction, and/or removal of fixtures, materials, products, materials and other discards from a structure which is diminished by such activities.
- 2.18 Department** means the building department with permitting jurisdiction over the Premises, whether it be the Building Department of the City of Crescent City or the Building Department of the County of Del Norte.
- 2.19 Director** means the Director of the Del Norte Solid Waste Management Authority or his/her designee.
- 2.20 Discards** means materials or products which are stored as no longer usable to the Generator but which are separated in preparation for Collection, as reusable products or components, as recyclable commodities, as Food Scraps, as organic materials, as Hazardous Waste, or as Solid Waste.
- 2.21 Disposal** means the consolidation, transport, and disposition of Waste at an authorized Disposal Site.
- 2.22 Disposal Site** means the authorized facility or facilities designated by the Authority for the transfer and ultimate Disposal of certain Waste by landfilling or other approved and regulated method(s).
- 2.23 Dwelling** means a space, structure or portion of a structure intended for use as a single residential unit, such as a house, apartment, condominium unit, hotel room, campground space, or mobile home park space.
- 2.24 Exclusive Franchise** means a privilege which is granted by the Authority to a specific corporation, business, or non-profit organization to provide specified

Exclusive Collection Services for Discards within the Franchise Area and non-exclusive services to other areas.

- 2.25 Food scraps** means untreated solid materials derived from plants or animals, separated and stored or transported for reuse or animal feed, for preparation as fuel, for aerobic composting, for anaerobic composting, for vermicomposting, for fermentation, and/or for mycological processing.
- 2.26 Franchisee or Franchised Collector** means the holder of the franchise privilege.
- 2.27 Generator** means the Person on the Premises that separates materials or products as Discards.
- 2.28 Hazardous Waste** means (1) all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by California Health and Safety Code sections 25110.02, 25114 and 25117, as amended, or in the Federal Resource and Recovery Act, 42 USC section 6901 et seq., as amended; (2) all wastes which may present a threat of disease or infection to humans or animals; and (3) radioactive wastes.
- 2.29 Household Hazardous Waste** means Hazardous Waste and Universal Waste generated at a residence and includes, but is not limited to, automotive fluids, paints, varnishes, solvents, pesticides, fertilizers and batteries.
- 2.30 Multi-Family Dwelling Units (MFUs)** means all Dwelling units and complexes that have five (5) or more dwelling units located on a single parcel of land or administered as a single enterprise. Multi-family Dwelling Units include all apartment complexes, mobile home parks, multi-storied residential units, senior housing/care facilities, and condominium complexes not served by Residential curbside Discard Collection Services and programs.
- 2.31 Non-Residential** means any Premises with permits, structures or land improvements for commercial, industrial, governmental, or institutional activities or uses, and which does not include Dwellings.
- 2.32 Owner** means the Person(s) holding legal title to the Premises.
- 2.33 Person** means an individual, firm, limited liability company, association, partnership, industry, public or private corporation, or any other entity whatsoever.
- 2.34 Premises** means any tract or parcel of land within the County, with or without habitable buildings or appurtenant structures, where Discards are generated or accumulated.

- 2.35 Products of Concern** means all products or materials that have been determined by the California Department of Toxic Substances Control to be hazardous or toxic, or which have been banned from municipal solid waste disposal by the California Integrated Waste Management Board (CIWMB), including but not limited to: paints and stains, devices containing liquid mercury, fluorescent lamps and bulbs, consumer electronic devices, sharps, and batteries.
- 2.36 Producer** means a Person who manufactures a product and sells, offers for sale, or distributes the product in Del Norte County under the manufacturer's brand, or who is the owner or licensee of a trade mark under which the product is sold or distributed in Del Norte County, or a Person who imports the product into Del Norte County for sale or distribution.
- 2.37 Recoverable Materials or Recyclables** means discarded materials separated for recovery such as glass, plastics, metals, wood, paper fibers, and compostable organic materials, and which have been separated by the Generator so those Discards would not be disposed of in a landfill.
- 2.38 Recycling Facility** means those facilities or operations that receive, process and transfer to market Recoverable Material Discards. With the exception of the use of wood for the generation of energy or as a compost feedstock, facilities using Recoverable Materials as a direct source of fuel for the production of heat energy, steam, or electricity are not Recycling Facilities.
- 2.39 Registered Self-Hauler** means a Person who has completed the Self-Haul registration process with the Authority as a customer of facilities administered by the Authority. Each of the following are subcategories of Registered Self-Haulers:
- (a) Registered Landscapers
 - (b) Registered Construction/Demolition/Roofing Contractors
 - (c) Registered Clean-Up Businesses
 - (d) Commercial Document Destruction & Recycling Services
 - (e) Registered Residential Self-Haulers
 - (f) Registered Non-Residential Self-Haulers
- 2.40 Registered Self-Hauler in "good standing"** means Authority customers who have satisfactorily completed the Self-Haul registration process as set by Resolution and updated from time to time by the Authority Board, including submitting and updating all required information, without violating any provision therein.
- 2.41 Removal** means the act of taking Discards from the place of Waste generation.

- 2.42 Residential** means of, or relating to, a structure consisting of 1, 2, 3, or 4 dwelling units located on a single parcel of land or managed as a single Residential complex and/or commercial enterprise.
- 2.43 Responsible Party** means and includes every Owner of, or Person who has the care and control of, an inhabited residence, unoccupied parcel, or place of business within the County. Property managers of one or more rental properties are Responsible Parties only to the extent that such property manager has been authorized by the Owner to incur maintenance expenses and set rent on behalf of the Owner of the Premises managed.
- 2.44 Self-Hauler** means a Person who hauls Discards generated on their Premises to the appropriately permitted facilities in Del Norte County.
- 2.45 Sharps** means hypodermic needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications.
- 2.46 Solid Waste** means all nonhazardous solid and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and Demolition wastes, abandoned vehicles and nonhazardous parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.
- 2.47 Tenant** means any authorized occupant of a rental unit.
- 2.48 Universal Waste** means a hazardous waste identified as a listed universal waste and is exempt from hazardous waste management requirements and, therefore, are not fully regulated as hazardous waste, including but not limited to, fluorescent lights, dry cell batteries, products containing cathode ray tubes, consumer electronic devices, devices containing liquid mercury, and aerosol cans. (See CCR Title 22, section 66261.9)
- 2.49 Waste** means Discards which have been separated and stored in preparation for Disposal.

SECTION 3. PARTICIPATION REQUIREMENTS

- 3.01 Collection.** Each Responsible Party shall have the affirmative responsibility to ensure that all Discards generated on their Premises are not handled, stored, or disposed of illegally, and shall provide for the Collection of Discards from the Premises on which they were generated either through a Collector or by direct self-haul to the appropriate Recycling Facility or Disposal Site.
- 3.02 Residential Waste.** All Residential Solid Waste collected in this County by a Collector shall be delivered to the Disposal Site designated by the Authority.

- 3.03 Residential Recyclables.** All Residential Recyclables collected by a Collector in this County shall be delivered to the facility responsible for Recyclables processing and marketing as designated by the Authority.
- 3.04 Residential Organics.** All Residential organic materials collected by a Collector in this County shall be delivered to the facility responsible for organics processing and marketing as designated by the Authority.
- 3.05 Non-Residential Waste.** All Non-Residential Waste collected in this County by a Collector shall be delivered to the Disposal Site designated by the Authority.
- 3.06 Non-Residential Recyclables.** All Non-Residential Recyclables collected by a Franchise Collector shall be delivered to the facility responsible for processing and marketing Recyclables as designated by the Authority.
- 3.07 Non-Residential Organics.** All Non-Residential organic materials collected by a Collector in this County shall be delivered to the facility responsible for organics processing and marketing, or other location as designated and approved by the Authority.

SECTION 4. PROHIBITED ACTIVITIES

- 4.01 Collection and Transportation.** Collecting or transporting Discards for a fee by anyone other than the Franchised Collector is prohibited, except under the following circumstances:
- (a) The Discards collected are generated at a commercial or government facility as Recoverable Materials and are being collected for reuse or recycling at an appropriately permitted facility; or
 - (b) The Discards being collected are Hazardous Wastes being collected by an appropriately permitted and licensed Hazardous Waste hauler to be delivered to a facility appropriately permitted to treat, dispose of or otherwise legally manage such Hazardous Wastes.
- 4.02 Theft of Discards.** No Person shall tamper with, modify, or remove materials from any designated Discard container unless permission has been granted from the Responsible Party for that Premises. Such action(s) constitutes a theft from the Responsible Party and/or the Collector, depending upon the timing and location of such action(s).
- 4.03 Theft of Services by Improperly Placing Discards.** No Person shall tamper with, modify, or place additional materials into any designated Discard container unless permission has been granted from the Responsible Party for that Premises. Such action(s) constitutes a theft of services from the Responsible Party and/or the Collector, depending upon the timing and location of such action(s).

4.04 Illegal Dumping.

- (a) No Person shall deposit or dump Discards upon any street, alley, gutter or roadway, or upon any lot or vacant area, or other public place or way, or upon Residential, commercial, industrial or other private or public property without the express permission of the Responsible Party, except as necessary to position and contain Discards in preparation for Collection or as otherwise authorized by this Ordinance.
- (b) No Person shall allow Discards generated by said Person, or transported by a Collector, to enter into drainage systems, sewers or waterways.

4.05 Accumulation of Discards. No Responsible Party shall accumulate, or allow to accumulate, upon or in such Premises, Discards of any kind such that the accumulated Discards constitute a nuisance as defined by any applicable State, County, City or Authority ordinance, code or regulation. This section shall not be construed as to interfere with reuse, repair, or salvage such as is commonly practiced as part of a Covered Project during the Construction Period. This section also shall not be construed as to interfere with onsite composting activities using organic materials generated on the Premises, unless such activities are demonstrated to do one or more of the following:

- (a) Pose a health or fire hazard;
- (b) Attract rats, flies, or other vectors of concern; or
- (c) Create objectionable odors off Premises.

4.06 Prohibited Processing and/or Disposal Methods. It shall be unlawful at any time for any Person, including Collectors, to do any of the following:

- (a) Burn any Discards within the County outside the circumstances authorized by valid permits issued by both the Fire Protection District and the Air Quality Management District;
- (b) Bury or dump any Discards within the County, except at a permitted transfer station during hours when such facility is open to the public;
- (c) Unload Recyclables or organic materials or Food Scraps at any location within the County except at facilities permitted to receive such Discards from the public during hours when such facilities are open;
- (d) Place Discards inside a boat except when servicing Premises which can only be accessed by boat, or as part of an organized cleanup event;
- (e) Place Discards inside an inoperable vehicle on public or private property anywhere in the County.
- (f) Transport Wastes which have been generated within the County and which can legally and appropriately be processed by permitted facilities located within the County to areas outside the County without prior written permission from the Director.

SECTION 5. COLLECTION SERVICES

5.01 Mandatory Responsibility; Non-Mandatory Franchise Subscription.

Subscription to Franchise Collection services is not mandatory. However, every

Responsible Party shall be responsible for the satisfactory Collection of all accumulated Discards on the Premises to prevent them from becoming a nuisance as defined by any applicable State, County, City or Authority ordinance, code or regulation.

5.02 Responsible Parties Shall Provide Basic Collection Services for Tenants. Each Responsible Party for a Premises is required to provide Basic Collection Services for each Tenant unit on such Premises, appropriate for each Tenant's Customer Class.

5.03 Authority Ordered Franchise Subscription. The Authority may order any Responsible Party which has created a nuisance unacceptable to the Authority by failing to provide for the Collection, recovery and/or Disposal of accumulated Discards in a manner consistent with this Ordinance, to subscribe to Franchise Collection Services and/or to increase the frequency, volume or selection of services for their Premises. The Authority may make such an order by granting authorization to the Director or his/her designee, and/or by adopting appropriate and pertinent rules, regulations or resolutions.

5.03 Frequency of Franchise Collection.

5.03.1 Frequency. Each Franchise Collector shall collect and dispose of all Solid Waste placed for Collection in compliance with this Ordinance from each occupied Premises covered under the Franchise agreement at least once during each calendar week, on the same day of each week. The Collector shall possess a sufficient number of vehicles including spares to maintain the Collection schedule at all times.

5.03.2 Holidays. When the Franchise Collection day falls on January 1st, July 4th, Labor Day, Thanksgiving Day or December 25th, the Collector shall choose one of the following options:

- (a) Collect on the holiday.
- (b) Collect one day prior or one day after the holiday, provided that regular Collection can be maintained on the regularly scheduled days the remainder of the week.

5.04 Hours of Collection. Collection of Solid Waste and Recyclables by a Collector shall be limited to the hours between 6:00 AM and 6:00 PM of each day.

5.05 Noise. A Collector shall conduct its operations so as to cause the least possible obstruction and inconvenience to public traffic or disruption to the peace and quiet of the area within which Collections are made. Collectors shall be required to promptly resolve all complaints of noise to the reasonable satisfaction of the Director.

5.06 Litter. All Collectors are responsible for tarping or otherwise fully containing all collected Discards so that no materials escape during transit. Any Collector who releases, permits or causes the release of any Discards onto public or private

property, onto roadways or into waterways within the County shall be held responsible for the clean up, containment, Collection and delivery of such Discards to a facility permitted to receive them.

- 5.07 Trespass.** No Person authorized to collect or transport Discards shall enter upon private property beyond the extent necessary to collect the Discards placed for Collection.
- 5.08 Ownership.** Discards become the property of a Franchise Collector when Discard containers are enclosed and positioned or set out for Collection.
- 5.09 Vehicle Inspection.** All Franchise vehicles engaged in the business of collecting and transporting or disposing of Discards in the County shall be subject to inspection by the County Health Department.
- 5.10 Collection of Unpaid Fees.** The Franchisee will be responsible for collection of subscription fees for Collection Services from their customers. For Franchise customers for whom the Authority has directed the Franchisee to provide specified mandatory Collection Services, any Franchise subscription fees that remain unpaid for a period of sixty (60) or more days after the date upon which they were billed may be assigned to the Authority for collection thereafter as authorized by Government Code Section 25828:
- 5.10.1 Report and Hearing.** At least once a year, the Board shall cause to be prepared a report of delinquent fees. The Board shall fix a time, date and place for hearing the report and any objections or protests to the report.
- 5.10.2 Notice of Hearing.** The Board shall cause notice of the hearing to be mailed to the landowners listed on the report not less than ten (10) days prior to the date of the hearing.
- 5.10.3 Hearing.** At the hearing, the Board shall hear any objections or protests of landowners liable to be assessed for delinquent fees. The Board may make revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.
- 5.10.4 Special Assessment & Property Lien.** The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of the delinquent fees. A certified copy of the confirmed report shall be filed with the County Auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation in the office of the County Recorder of a certified copy of the resolution of confirmation.
- 5.10.5 Payment to Franchisee.** Within sixty (60) days of collection of all unpaid Collection Service Fees due, the Authority shall pay the Franchisee for services rendered for that customer.

SECTION 6. SELF-HAUL STANDARDS

- 6.01 Litter.** All Self-Haulers are responsible for tarping or otherwise fully containing all collected Discards so that no materials escape during transit. Any Self-Hauler who releases, permits or causes the release of any Discards on public or private property, on roadways or in waterways within the County shall be held responsible for the clean up, containment, collection and delivery of such Discards to a facility permitted to receive them, and may also be subject to administrative or criminal penalties as described in section 11 of this Ordinance.
- 6.02 Proof of Responsibility.** All Responsible Parties have the burden, upon inquiry by the Authority, of proving that they have provided for the responsible Disposal of the Waste generated on their Premises. A Responsible Party who chooses to self-haul rather than subscribe to Franchise Collection services may show responsibility by either:
- (a) Registering with the Authority in which case the Authority will maintain electronic records of such Responsible Party's transactions at the Del Norte County Transfer Station. The Authority with cause may adopt compliance orders including requirements that specified Responsible Parties register with the Authority for the purpose of tracking and documenting their self-haul activities.
 - (b) Retaining copies of Disposal receipts for the most recent six (6) months.

SECTION 7. CONTAINERS

- 7.01 Covers.** Any container to be placed for Collection of Solid Waste shall have a tightly fitting cover. The cover shall be used at all times.
- 7.02 Residential and Multi-Family Units.** Every Responsible Party of every Residential Premises and/or Multi-Family Dwelling Unit in the County shall provide sufficient containers as to accommodate the amount of Discards generated on the Premises. The containers shall be constructed of metal, hard rubber or plastic, shall be constructed so as not to permit the contents thereof to sift or pass through any opening therein other than the top and shall be maintained in a clean and sanitary condition by the Responsible Party or the Collector.
- 7.03 Non-Residential.** Every Responsible Party of every Non-Residential Premises in the County shall provide sufficient containers as to accommodate the amount of Discards generated on the Premises. The containers shall be constructed of metal, hard rubber or plastic, shall be constructed so as not to permit the contents thereof to sift or pass through any opening therein other than the top and shall be maintained in a clean and sanitary condition by the Responsible Party or the Collector.
- 7.04 Construction and Demolition.** Construction and Demolition Discards shall be placed only in containers intended to be used for the Collection of Construction and Demolition Discards. Incidental accumulations during construction periods of such Discards on Premises awaiting separation, processing, reuse, recycling,

salvage or on-site composting will not be considered violations of this section unless such accumulation becomes a nuisance as defined by any applicable State, County, City or Authority ordinance, code or regulation.

- 7.05 Uncontained Discards.** Furniture, large metal appliances, prepaid bags and other Discards which should not or cannot be placed in a Discard container may be stored on the Premises prior to Collection in a manner which does not create a nuisance. Such Discards may be positioned for Collection on the day such items are scheduled for Collection by the Franchisee or other Collector.
- 7.06 Prohibited Materials.** No Person shall place the following materials in a Discards container: untreated human biosolids, liquids, Hazardous Waste or Household Hazardous Waste, Universal Wastes, electronic wastes, batteries of any kind, needles or Sharps, untreated medical or infectious wastes, or any product or material that has been banned from Disposal as municipal solid waste by any division of the California Environmental Protection Agency, including the Department of Toxic Substances Control and the California Integrated Waste Management Board. Notwithstanding the foregoing, materials collected under the terms of the Franchise or through an Authority sponsored event may be transported and/or placed for Collection in the appropriate container(s) provided or as described in public information approved and/or distributed by the Authority.
- 7.07 Identification of Non-Residential Containers.** Every Collector who rents, owns or controls any container, bin or other equipment used for the storage of Non-Residential Discards shall at all times:
- (a) Place and maintain on the outside of each container, bin or other equipment, in legible letters and numerals not less than one inch in height, the Collector's name and telephone number;
 - (b) Keep such containers and lids in good, clean and sanitary condition; and
 - (c) Provide containers for all Collection customers that are of sufficient size and are constructed to prevent the release of any amount of Discards.

SECTION 8. SERVICE REQUIREMENTS FOR RENTAL PROPERTIES

- 8.01 Responsible Parties to Provide Franchise-Equivalent Basic Collection Services for each Tenant of their Rental Properties.** All Responsible Parties are required to provide for every Tenant Basic Collection Services. Responsible Parties may provide such services as Registered Self-Haulers, but the services and Collection frequency must provide a capacity, diversity and convenience of service for each Tenant that is as convenient and comprehensive as, or better than, the Basic Collection Services available from the Franchise Collector for that Tenant's Customer Class.
- 8.02 Recycling Service and Fee.** Responsible Parties may include charges for Discard Collection services within the rent for each Tenant up to the amount the Franchise Collector would be authorized to charge each

Tenant for equivalent services provided by the Collector. The Board may further establish or place a limit on the fees for such services as provided in Section 12.03.

- 8.03 Container Requirements.** All Discard containers for the Premises must be labeled in a readily visible location, with letters at least one inch tall, listing the types of material(s) which may be placed into each container. Containers for Solid Waste must be a different color than containers for Recyclable Materials. Containers for organic materials (if any) shall be a different color than the color of containers for either Solid Waste or Recyclable Materials used on the Premises.
- 8.04 Space for Recycling Containers.** Each Responsible Party for a rental property shall provide adequate space for and at all times keep within an enclosure or conveniently locate near a building, containers which are designed to be water-tight for the collection of separated or comingled Recoverable Materials. The containers shall have tightly fitting covers and shall not leak.
- 8.04.1 Location.** Responsible Parties for rental properties shall cause the containers for Recoverable Materials to be located in areas such that proximal access to the containers for the majority of tenants on the Premises is equal or greater in convenience when compared to the access to containers for Solid Waste Disposal.
- 8.04.2 Number.** The number and type of containers shall be sufficient to provide the basic level of service required by this Ordinance. Each Collector shall provide the number and type of containers that are comparable to those provided by the Franchisee for similar Collection Services.
- 8.05 Use of Containers.** No Person(s) other than the Tenants whose Responsible Party has contracted or arranged for service with a Collector, or a Person with the Responsible Party's consent, shall deposit any materials whatsoever into any Discard container on such Premises.
- 8.06 Ownership of Recyclable Materials.** Recyclable Materials lawfully deposited in or near bins or containers for the Collection of Recyclables shall become the property of the Collector upon deposit in any such container.
- 8.07 Tenant Exemption.** Nothing in this section shall prevent any Tenant from collecting, transporting, and recycling or disposing of Discards generated by that tenant's household.
- 8.08 Responsible Parties for Non-Residential Premises.** Responsible parties for Non-Residential rental properties may designate, by mutual consent and written agreement in a form acceptable to the Authority, that

one or more Tenants have assumed responsibility for compliance with section 8.01 through section 8.04.2 of this Ordinance.

8.08.1 Responsible Parties for each Premises retain responsibility for ensuring that Basic Collection Services are provided on a continuous and adequate basis for each Tenant and that those services are provided in a way that does not create a public nuisance.

SECTION 9. CONSTRUCTION AND DEMOLITION

9.01 Definitions. The following definitions shall apply to this section:

9.01.1 Applicant means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever required to apply to the Department for an applicable permit to undertake any Covered Project, as defined below, within the County. An Applicant must comply with this Ordinance.

9.01.2 Covered Project means a project for which a Construction, building, remodel, Demolition, grading or other similar permit is required by the Department.

9.01.3 Demolition means the destruction, razing, ruining, tearing down or wrecking, of a facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

9.01.4 Project or Construction Project means any activity for which a building, Demolition, grading or other similar permit is required by the Department.

9.01.5 Renovation means any change, addition or modification in an existing structure that requires a building permit or Demolition permit but does not include a project limited to interior plumbing, electrical or mechanical work.

9.01.6 Salvage means the controlled removal of C&D Materials from a permitted Construction or Demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

9.02 Covered Projects. Each Applicant for a permit required by the Department for a Covered Project also shall complete and submit a Construction and Demolition Materials Management Plan (MMP) to the Department unless the project is an Exempt Project, as defined below. No permit for a Covered Project shall be issued by the Department unless the Applicant for the permit has submitted to the Department a Construction and Demolition MMP approved by the Department or the project is an Exempt Project, as defined below. Review of applications for permits for Covered Projects by the Department may be concurrent with the review of the Construction and Demolition MMP by the Department.

- 9.03 Exempt Projects.** No Construction and Demolition MMP shall be required for any of the following:
- (a) Work for which a building permit, Demolition permit, or grading permit is not required;
 - (b) Projects for which only a plumbing, electrical or mechanical permit, or any combination of them, is required;
 - (c) Roofing projects that do not include significant (more than 100 square feet) removal of an existing roof, or roofing projects not involving any other construction or Demolition activities of any size, for which the roofing contractor is the Collector and is a current Registered Self-Hauler in "good standing" with the Authority;
 - (d) Installation of swimming pools or spas;
 - (e) Demolition or construction required to protect public health or safety in an emergency, as defined in Public Resources Code § 21060.3, as it may be amended.

9.04 Compliance as a Condition of Approval. Compliance with the provisions of this Section shall be a condition of approval of any permit for a Covered Project.

9.05 Construction and Demolition Materials Management Plans (C&D MMP). Each Applicant for a permit for any Covered Project shall complete and submit to the Department a C&D MMP, on a form adopted for this purpose by ordinance or resolution of the Authority Board, and as amended from time to time by the Authority and each Department. C&D MMPs are subject to the review by the Department and the Authority, and the Department and the Authority are each hereby authorized to request additional supporting information associated with any C&D MMP to clarify the management plans and documented implementation for Discards from any Covered Project during the Construction Period.

SECTION 10. REGISTERED SELF-HAULERS

10.01 Guidelines. The categories of Registered Self-Haulers described in this section often provide Discard Collection Services incidental to their other client services. Residential and Non-Residential Registered Self-Haulers may be the designated Collector only for Premises for which they are the Responsible Party, whereas the categories of Registered Self-Haulers described in this section may be the designated Collector for their clients as well.

10.01.1 Purposes. This section describes categories of Persons required to register with the Authority for the purposes of: documenting responsible Discards management by such Persons, using credit or debit cards at Authority facilities, and receiving other benefits associated with Registering as Self-Haulers at Authority facilities.

10.01.2 Authorization. All categories of Registered Self-Haulers as described in this section and in "good standing" are authorized to deliver materials to Authority facilities for recovery or Disposal.

10.01.3 Reporting. All categories of Registered Self-Haulers may, at any time, be required to report the customers and Premises generating Discards delivered to Authority facilities.

10.02 Landscapers & Gardeners. Landscapers, gardeners, tree trimmers or Persons engaged in similar trades shall become Registered Self-Haulers and/or Collectors for the purposes of collecting and disposing of grass cuttings, prunings, clippings, stumps and similar material incidental to providing such landscaping, gardening, tree trimming or similar services.

10.02.1 Limitations. The Authority may redesignate any Registered Landscape and Gardener Self-Hauler as a Clean Up Business if over any two (2) month period more than 40% of the total weight of materials delivered to the Del Norte County Transfer Station by that Self-Hauler was Waste.

10.03 Clean Up Businesses. Clean up, hauling and unlicensed general repair or handy-man service businesses shall become Registered Self-Haulers of Recyclable Materials, Solid Waste, or Compostable Discards. Registered Self-Hauler Clean Up Businesses shall retain all records for the three (3) most recent years of customers and Premises such Clean Up Business has served within the County.

10.03.01 Limitations. Unless a Premises is the site of a Covered Project during the Construction Period, or the Authority has granted a waiver, Registered Clean Up Businesses are explicitly prohibited from providing Solid Waste Collection services from any specific Premises for more than four (4) consecutive weeks, or for more than six (6) weeks in any six (6) month period.

10.04 Commercial Document Destruction & Recycling Services. Persons or parties engaged in the business of destroying and disposing of or recycling secret, confidential or sensitive documents and transporting such documents to Authority facilities shall become Registered Self-Haulers. Confidential document destruction companies operating in Del Norte County which are not Registered Self-Haulers shall be required to retain and present evidence to the Authority that all materials collected from clients in Del Norte County were recycled or composted at appropriately permitted facilities and shall retain all such records for the three (3) most recent years customers and Premises such Document Destruction & Recycling Business has served within the County.

10.05 Construction/Demolition/Roofing Contractors. Licensed General Construction, Demolition or roofing contractors shall be Registered Self-Haulers and provide Discard Collection services for Del Norte County clients disclosed to the Authority for Covered Projects during the Construction Period. Construction/Demolition/Roofing Contractors which are Registered Self-Haulers shall retain records for the three (3) most recent years of such Contractor's customers and Premises served within the County.

10.06 Farm Operations Exception. No provision of this Ordinance shall prevent any owner, operator, occupant or employee of a farm or ranch consisting of five (5) or more acres from accumulating, processing or transporting Discards which may be legally managed on the Premises as part of ongoing agricultural operations. Such on-site Farm Operations do not need to register with the Authority as Self-Haulers to comply with this Ordinance, but the Responsible Party for such Farm Operations shall have the affirmative responsibility to ensure that all Discards generated on such Premises are managed, stored, collected and disposed of in a manner that does not violate State or Federal laws and/or regulations.

SECTION 11. VIOLATIONS AND ENFORCEMENT

11.01 Interpretation of this Ordinance. Interpretation of all provisions of this Ordinance will be provided by the Authority Director. Any written interpretation provided by the Authority Director may be appealed to the Authority Board of Commissioners at a regularly scheduled meeting of the Authority Board upon written request.

11.02 Compliance. The Authority or its agents, with cause, may order any Responsible Party who has violated or is violating one or more provisions of this Ordinance to demonstrate compliance by registering with the Authority as described in section 6.02 of this Ordinance. The Authority or its agents, with cause, may also order any Responsible Party to demonstrate compliance by subscribing to specified Franchise Collection services as described in section 5.02 of this Ordinance.

11.03 Administrative Civil Penalties.

- (a) In addition to any other remedies provided by this Ordinance, any Person who violates any provision of this Ordinance shall be liable for an administrative civil penalty as provided for in the Authority's Administrative Citation Ordinance and pertinent Resolutions.
- (b) In determining the civil, criminal, and administrative civil penalties imposed pursuant to this Ordinance, all relevant circumstances will be considered, including but not limited to, the extent of the harm or potential harm caused by the violation, the nature of the violation

and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the violator.

11.04 Criminal Penalties. The following criminal penalties apply to violations of this Ordinance.

11.04.01 Violation as misdemeanor. Unless otherwise specified by this Ordinance, violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of terms and conditions established in connection with franchisees issues pursuant to this Ordinance, shall constitute a misdemeanor.

11.04.02 Penalty for misdemeanor. Unless otherwise specified by this Ordinance, any Person, whether as principal, agent, employee or otherwise, who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand dollars (\$1000) or imprisoned for not more than six (6) months in the County Jail, or both. Each day such violation continues shall be considered a separate offense.

11.04.03 Other penalties. Such penalties shall be in addition to any late fees, civil penalties, administrative civil penalties, or other charges payable to the Authority by a violator for the same period of time or for the same violations.

11.05 Civil Actions. In addition to any other remedies provided in this section, any violation of this Ordinance may be enforced by civil action brought by the Authority. In any such action the Authority may seek, as appropriate, any or all of the following remedies:

- (a) A temporary and/or permanent injunction;
- (b) An assessment of the violator for the costs of investigation, inspection, or monitoring survey which led to the establishment of the violation and for the reasonable costs of preparing and bringing legal action under this subsection;
- (c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from violation;
- (d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

SECTION 12. FRANCHISES

12.01 Exclusivity of Franchise. Except as otherwise specifically provided in this Ordinance, no Person shall collect Solid Waste or Residential Recyclables within the County of Del Norte without having first been awarded a Solid Waste or Recyclables Franchise and entering into a Franchise agreement with the Board. Such Franchise shall be in addition to any business license or permit otherwise required by the City of Crescent City or the County of Del Norte. The Franchisee shall comply

with all of the requirements of this Ordinance. No permit issued by any other governmental agency authorizing Collection of Solid Waste or Residential Recyclables shall be valid in the County, unless the permit holder has entered into a Franchise Collection agreement with the Authority.

12.02 Franchise Award. In the sole discretion of the Board, Solid Waste and Recyclables Franchises may be awarded on an exclusive basis, with or without competitive proposals or bidding, and may relate to any class or type of Solid Waste and Recyclables within all or part of the County.

12.03 Franchise Collection Rates. The Board may, by resolution or an approved Franchise agreement, establish or place a limit on the rates, fees and charges (collectively, "rates") Collectors may charge to Responsible Parties for the Collection of Solid Waste and Recyclables. No Collector shall charge any rate which is greater than the maximum established or permitted by the Board.

12.04 Franchise Fees. Each Collector awarded a Franchise shall pay a yearly fee in an amount to be determined by resolution of the Board or as stated in the Franchise agreement.

12.05 Resolution of Conflicts. In the event of any conflict between the provisions of a Franchise agreement which is authorized and approved by the Board and the provisions of this Ordinance, the provisions of the Franchise agreement shall control.

12.06 Transfer of Franchise. A Franchise issued under this Ordinance shall not be transferred, sold, assigned, relinquished, or delegated to another Person without the approval of the Board. This restriction includes the transfer of ownership of the Franchisee or the conveyance of the Franchisee's stock to a new controlling interest.

12.07 Extension of Franchise. The Board and Franchisee may mutually agree to extend the Franchise term on such terms and rates as the parties may agree. Nothing contained in this provision or in this article shall obligate the Board to extend the term of any Franchise.

SECTION 13. COOPERATION WITH SOVEREIGN NATIONS & GOVERNMENT AGENCIES

13.01 Sovereign Nations. It is the intention of the Authority to cooperate and provide for Collection Services to sovereign nations, whose lands are located within the County, under the same terms and conditions as such services are offered to the general public.

13.02 Government Agencies. The following Persons shall be authorized to organize, direct or sponsor the Collection, Removal or transportation of Non-Residential Solid Waste within the County without a Franchise:

- (a) The United States, the State of California, a special district or other local public agency, or any employee or member of the Armed Forces thereof, when collecting or transporting Discards generated on Premises administered by that agency or produced by the operation of the public agency under a system of Solid Waste Collection and transportation operated and maintained by the public agency, and
- (b) Municipal Corporations and other governmental agencies when using their own agency vehicles to collect, transport or dispose of Discards, generated by that agency, within the County.
- (c) Though such government agencies may collect and transport Discards from their agency's facilities and operations, such agencies shall direct all materials and products so collected to facilities within the County as designated by the Authority for processing, recovering, or disposing of the Discards.

SECTION 14. PRODUCER RESPONSIBILITY

14.01 State Legislation. The Del Norte Solid Waste Management Authority supports comprehensive nationwide and/or statewide legislation for Extended Producer Responsibility (EPR) for all Products of Concern. If the Federal and California legislatures fail to adopt comprehensive EPR legislation addressing such Products of Concern in Del Norte County by January 2010, the Authority reserves the right to require that Producers of one or more categories of Products of Concern, in collaboration with local product retailers, must develop acceptable EPR or Take Back programs compatible with the Framework for Extended Producer Responsibility adopted by the California Integrated Waste Management Board.

14.02 Take Back Programs. Such take back programs must be convenient to Del Norte County customers and provided at no additional end-of-life cost.

- (a) Such programs may be funded by additional charges included in the sales price of similar new products sold in Del Norte County.
- (b) For any Product of Concern, the Board hereby explicitly reserves the right to require that retailers only offer such products for sale in Del Norte County made by Producers which have implemented an adequately convenient Take Back program for such product or material in Del Norte County.

14.03 Local Requirements Option. For products or materials which the Authority determines to be of particular regional concern, independent of any actions (or inaction) by federal or state government agencies, the Authority may impose local requirements for Extended Producer Responsibility, Product Take Back, or sales bans as necessary to contain

Authority program costs, control pollution, increase recovery, or to reduce blight or illegal Disposal.

14.04 RESERVED

SECTION 15. PUBLICATION. The Board shall cause this Ordinance to be published once within fifteen (15) days after passage in a newspaper of general circulation, printed, published and circulated in the County in accordance with Sections 25124 and 36933 of the Government Code.

SECTION 16. CEQA FINDINGS The Board of Commissioners of the Del Norte Solid Waste Management Authority finds that this Ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines § 15061(b)(3) because "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." In addition, the Ordinance is subject to a Class I categorical exemption pursuant to CEQA Guidelines § 15301 in that the activities mandated by the ordinance will occur at existing residential and commercial establishments and, therefore, consist "...of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination....The key consideration is whether the project involves negligible or no expansion of an existing use." The Authority Director is directed to file an appropriate notice of exemption.


SECTION 17. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Authority hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof, are declared invalid or unconstitutional.

SECTION 18. EFFECTIVE DATE. This Ordinance shall become effective thirty-one (31) days from its final adoption.


INTRODUCED at the regular meeting of the Board of Commissioners of the Del Norte Solid Waste Management Authority on the 10th day of September, 2008, by motion of Board member Dennis Burns, and seconded by Board member Irene Tynes.

PASSED, APPROVED AND ADOPTED by the Board of Commissioners of the Del Norte Solid Waste Management Authority on the 8th day of October, 2008 by the following vote to wit:

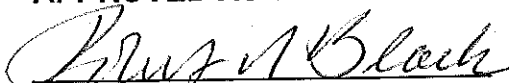
AYES: Commissioners Tynes, Burns, Sullivan, Hatfield & McClure
NOES: None
ABSENT: None
ABSTAIN: None


Martha McClure, Chair

ATTEST:


NAME
Clerk

APPROVED AS TO FORM:


ROBERT N. BLACK
DNSWMA Attorney